

CHARTER COMMISSION
CITY AND COUNTY OF HONOLULU

TUESDAY, APRIL 12, 2005
COUNCIL CHAMBERS
THIRD FLOOR, HONOLULU HALE
4:00 P.M.

MINUTES

Charter Commission Members Present:

Donn M. Takaki
Darolyn H. Lendio
Andrew I.T. Chang
Jared N. Kawashima
Jeffrey T. Mikulina
Gerald L. Coffee
Jan N. Sullivan
Amy H. Hirano

Charter Commission Members Absent:

E. Gordon Grau
Stephen E. Meder
James C. Pacopac
Malcolm J. Tom
Jim Myers

I. Call to Order

The meeting was called to order at 4:05 p.m., April 12, 2005, by Chair Donn Takaki.

II. For Action

a. Discussion and Adoption of the Rules of the 2005 Charter Commission

The Chair asked for any discussion on the rules.

Commissioner Jared Kawashima started the discussion by stating that his recollection was that the suggestion was made at the last meeting to delete the Committee on

Calendaring. Commissioner Kawashima stated that he had no objection to that, and thought that it was a good suggestion.

Chair Takaki recalled that the discussion specifically was to combine the duties of the Calendar Committee with the Submission and Information Committee.

Commissioner Sullivan had a question about the copy of the Rules that were distributed. Deputy Corporation Counsel Dawn Spurlin pointed out that there was a printing discrepancy.

Commissioner Lendio raised the point that at page 9, under Rule 10, regarding the Parliamentarian, 10.b, there is an indication as to “him,” and that because the rules are gender neutral, a change would be appropriate to “person” or “parliamentarian” or something gender neutral.

Action: Commissioner Lendio moved to adopt the rules as amended in the discussion, specifically the amendments being at page 3, Rule 5, combining the Submission and Information Committee with the Calendar Committee, and the new Committee being called the Committee on Submission and Information; at page 8, number 4, that the reference to Rule 11 be changed to Rule 12; and that on page 9, Under Rule 10, with regard to the office of Parliamentarian, that the reference be made gender-neutral, and that the Rules use gender-neutral language. The motion was seconded. All commissioners present voted in favor of the motion, and the motion was passed.

b. Change of the Chair of the Personnel Committee

Action: Commissioner Sullivan moved to have Commissioner Lendio replace Chair Takaki as Chair of the Committee on Personnel. The motion was seconded. There was no further discussion. All commissioners present voted in favor of the motion, and the motion was passed.

III. Committee Reports

Report of Budget Committee

Commissioner Lendio stated her understanding that the Chair and Commissioner Myers appeared before the City Council on March 23rd or 24th with regard to the Commission’s budget request. There was some questioning from the Council as to what specific items had been requested, and at this time, the City Council is still pending on the budget request through the rest of the fiscal year and the next fiscal year.

Chair Takaki added that Commissioner Lendio's description was correct. Also, for the Commission's information, Chair Takaki reported that the Commission has delegated to the Budget Subcommittee the task of securing office space for the Commission and to update the Commission, and that the Committee was still in the process of securing office space.

Commissioner Lendio added that the Committee did look at four office spaces in the metropolitan Honolulu area, but that there are still discussions as to whether or not the Commission could secure some City space. The office space that the Committee inspected are commercial spaces that are adjacent to the City but not necessarily owned by the City, so the Committee is trying to look for the most cost effective office space that can be utilized during the activity till December of '06.

Report of Committee on Personnel

Commissioner Lendio reported that there were approximately 36 applicants for the position of Executive Administrator for the Charter Commission. The Committee narrowed the applicant pool down to five candidates and had hour-long interviews with each candidate in which time the Committee also held some discussion on the candidates. Commissioner Lendio recommended that the Commission convene an Executive Session to discuss the personnel matters.

Action: Commissioner Jeff Mikulina made a motion that the Commission go into an Executive Meeting to discuss personnel matters relating to the hiring of the Executive Administrator. The motion was seconded. There was no further discussion on the motion. All commissioners present voted in favor of the motion, and the motion was passed.

The Commission then adjourned to Executive Meeting.

-----Executive meeting-----

Following the Executive Meeting, the Commission reconvened into regular session.

Action: Commissioner Lendio, as Chair of the Personnel Committee, made a motion that the Commission grant authority to her to extend an offer to the Executive Administrator candidate selected and recommended by the Committee, within the parameters discussed in the Executive Meeting. The motion was seconded. There was no further discussion on the motion. All commissioners present voted in favor of the motion, and the motion was passed.

Report of Rules Committee

Commissioner Kawashima stated that there was no further report from the Rules Committee.

Report of Calendar Committee

Commissioner Sullivan started with a summary of a report that was distributed to all Commissioners present, and thanked Deputy Corporation Counsel Lori Sunakoda and the Corporation Counsel staff for helping to pull together the background information. She explained that what she tried to do was to put it into a simple format. She further explained that the first column contained information from the '71-'72 Commission, the second contained information from '91-'92 Commission, the third had information from '98 Commission, and then the last column on the right was basically a draft on what was to be discussed at this meeting. The report contained major calendar events. The first event was entitled public hearings, but actually describes different venues for public input. The different Commissions have handled public input differently over time. So regarding the first segment, which was labeled public hearing input on amendments to consider, her understanding was that this was a public process only used in the '71 Commission which actually three public hearings, to get an initial list of amendments; this was a very preliminary type of public hearing. Her understanding was that the second group of public hearings was at the point at which the Commission had items under review and did their research, and took it out to the public to get public input on specific amendments that they were considering to put on the Charter; this was at a much more defined point in the process. The different Commissions had a different number of meetings and different venues. One of the things that this Commission has to decide is how many public hearings the Commission feels is reasonable and also the venues. Some Commissions had them in Honolulu, some Leeward, Windward, Central Oahu, West Oahu and Ewa. The last public hearing section is what was called public workshops on amendments; it looks like the only Commission that did that was the '98 Commission. Commissioner Lendio could address that better since she was on the Commission; it appears this was to basically educate the public on the amendments.

Commissioner Lendio explained that it was more of an educational forum for people, especially on some of the more complicated reorganization amendments.

Commissioner Sullivan explained further that in the middle part of the report, she was just trying to address the issue of whether there was any specific format for the Council, Administration, and the Mayor to provide input and noted that there was little information as to how the past Commissions did it. Commissioner Sullivan then noted that the key actions were contained in the last part of the handout. She tried to pick out what she thought were the critical dates for which the Commission had to agree on how they should be handled. The first is to approve an initial list of amendments, which would be a broad list.

The second, which she called a short list, was not necessarily done by the other Commissions. She assumed that what previous Commissions had acted on as the initial list was probably already a short list. She raised the question whether this Commission would need to do a first list and then narrow it down.

The third action on the handout, which contained tentative dates for discussion, was to act on the proposed amendments by May and refer them to the Style Committee. The last real critical date on the handout was the end of July '06, which is approval of the final amendments.

Commissioner Sullivan walked the Commission through the draft calendar corresponding to the above dates and deadlines. She was counting on the Executive Director and staff being hired this month. And then in May, similar to the other Commissions, the Commission would put a notice in different publications to request public input on potential Charter review topics. Whether the Commission has a public hearing or whether it just asks the public to mail it in and contact the Executive Director is something that needed to be decided. Then in June would be the deadline for public input, and in July the ED would recommend the initial list of topics for review and voting. The Commission could try to expedite any of these steps. Commissioner Sullivan noted that part of the hesitation in putting these dates out was that the Commission does not have an Executive Director, and therefore Commissioner Sullivan did not know what that person may think in terms of how much time they need for some of these items. With action in July, it would give the ED and staff, August, September, October, and November to research on that initial list of topics. And by the end of the year in December, the staff would recommend and the Commission would vote on a short list to be focused on.

Commissioner Sullivan went on to explain the other dates on the draft calendar. In the new year, based on that short list, the calendar had staff working on detailed analysis in January, February, and March; the Commission holding public hearings in the month of April; voting on the tentative approval of amendments in May and then going to Style Committee to work on language; allowing for June and July to work on the technicalities; and the final vote in July. There was also a note that, as she understood it, by law the actual hard deadline is the end of August. The July deadline would give the Commission a buffer. In September, the Commission is required to publish notice in the newspaper and the public education campaign should start. Then following election day, at the end of the year the Commission has to submit a final Commission report to the City Clerk. Commissioner Sullivan noted that the handout is a draft calendar, and that there were some other interesting items that were not included, such as the number of people that attended the public hearings. Commissioner Sullivan then opened the floor for discussion.

It was asked whether the initial list of amendments were submitted on March 7 and March 9 of 1971 and 1991, or in other words the year before the respective election years.

Commissioner Sullivan replied that she believed that was the case.

It was asked if that meant that the prior Commissions gave themselves over one year to go through the proposed amendments.

Commissioner Sullivan said it appeared that the 1972 Commission did it differently. The 1972 Commission had two series of public hearings. The first series was to get input on what items they should consider, and was started in January of '72. In March 1972, a couple of months after

that, the 1972 Commission took action to approve that initial list. So it appeared that the 1972 Commission went through the process of coming up with an initial list and preparing the amendments for the election all in 1972.

Chair Takaki raised some points regarding the deadline for submissions of proposed amendments. In a year, somebody could say that the Commission should have done something, or they would like to do something at that time. And if the date is too early, someone could say that they did not have time to submit a proposed amendment. Chair Takaki believed that the Commission needs to consider what would be the deadline to accept submissions and if the Commission was going to make any exceptions.

Commissioner Sullivan raised the issue of whether the Commission wanted to hold two different sets of public hearings, as the 1972 Commission apparently did. Commissioner Sullivan was not clear on the value of doing that, or whether it was worth it to the 1972 Commission. The fact that the subsequent two Commissions did not do that may be something to consider as well.

Commissioner Kawashima stated that he thought that the rules allow for public testimony, so if the public does appear and they register with the Secretary, then the Commission needs to give them that time.

Commissioner Sullivan replied that she did not disagree with that. But the point was that these were specifically publicized public hearings in different venues in the community that were just for that purpose; they were public outreach hearings.

Commissioner Kawashima had a comment with respect to the key actions. Because Rule 4 in the rules require a certain procedure, and in one of the procedures it goes to Style Committee and then it bounces back and forth between the Commission, that the Commission may want to consider adding the Style Committee into the calendaring process. There was some additional discussion on the role of the Style Committee in previous Commissions.

Commissioner Lendio had two comments. First on the public hearing issue, she noted that Commissioner Sullivan indicated that there were no public hearings the last two Commissions on input as to what amendments should be considered. Being a member of the last Commission, she did not think that really hurt the public, that the 1998 Commission didn't have public hearings on input because the public had the opportunity to suggest amendments through the process, whether straight to the Commission or through any member of the City Council or the Administration. She thought that the metropolitan Honolulu public hearings on consideration on what was being reviewed were well publicized and attended, and the public had ample opportunity for give input, in addition to the 1998 Commission going out to various parts of the island to ask for input on what was being reviewed. The 1998 Commission was open to all suggestions, so she did not think that not having public hearings on the first items here on the calendar would hurt the public in any way, because there would be ample opportunity for them to speak.

Commissioner Lendio's second comment was on the question as to how long to leave the process open to consider amendments in terms of approving the initial list of amendments. She believed that the Commission should extend as long as it possibly can because she would not want the criticism that the Commission left the window open of six to eight months and then the public was cut off, although the Commission had maybe another six to eight months more in trying to get something finalized. She thought that all of the Commissioners are all fair-minded people and are very open to what the public has to say, so she would rather err on the side of opening the process for a longer period of time and then crunching at the end in terms of the style, language, and the short list. She thought that the July 5 date is too soon, and that it should be later. She did not have a date in mind right now on what the date should be, but thought that the Commission should open up for a longer period of time.

Commissioner Kawashima asked Commissioner Lendio if, in her past experience with the last Commission, amendments come in at the last minute. Commissioner Lendio replied no. Commissioner Lendio explained that many amendments came in at the beginning. Because of the short time frame the 1998 Commission was under, they immediately had many, many amendments to consider. And the difficult thing about that was how to hear testimony on all of them so that they can keep an open mind on what should go on the ballot. Thus the more difficult part is trying to schedule open public hearings, hearing testimony from the affected departments and government agencies on how these amendments would affect them, and trying to fit all of those in while coordinating the busy schedules of 13 Commissioners. The process was very well publicized, so there were a lot of amendments to consider, but the more onerous part was how did they hear all of them and make an educated decision on what they were going to do about it.

Commissioner Mikulina echoed Commissioner Lendio's second point about the timeline, and thought that it makes sense to leave it open as long as possible. On the first point, Commissioner Mikulina was a little bit curious that they didn't have any initial input from the public in the last two Commissions. He understood that in '98 there seemed to be a real focus on the Charter Commission for the reorganization more than anything, so that may have been the reason.

Commissioner Mikulina expressed concern that if there is no initial public invitation to chime into this process, that the public might feel somewhat left out. The Commission can make it as accessible as possible to the public, so the public feels like they were given ample opportunity to come forward. Commissioner Mikulina noted that meetings at 4 o'clock at City Hall aren't as accessible as, for example, formal public hearings at a high school gym in the evening. This way there would not be an impression that we have an agenda, these set 50 amendments, and the Commission is going to the public to get input. However, Commissioner Mikulina noted that maybe there would be hundreds of people coming out with everything, or maybe only two people would show up.

Commissioner Sullivan thought that the procedure that the Commission uses is important, such as putting a notice in the paper that they are taking in public comments. There was a form that one of the Commissions developed that was pretty well thought through. And the reason Commissioner Sullivan liked the form was in Commissioner Sullivan experience, when you have

a whole number of public hearings, there tends to be a problem with getting all the Commissioners to show up to so many meetings. The written format requires some thought be put into it as to exactly what section in the Charter is involved, what the thinking is, what the problem is, and what should be amended. Commissioner Sullivan noted that that was maybe her own bias, because it's easy for people to stand up and just say things, but it's hard to actually pin it down to what exactly is being proposed. Commissioner Sullivan noted that it was probably just a more efficiency concern, that she is not against getting public input, but thought the Commission should think through how to effectively get input that it can really use.

Commissioner Mikulina expressed that he was fine with any format just as long as the public is aware that their ideas are welcome. He suggested that an ad could be posted in the paper setting forth the procedures, and perhaps an on-line form or website that would make it easy to make a little form that the public can submit. Commissioner Mikulina felt that more folks would rather sit at home and click through a website than go to a meeting.

Commissioner Sullivan thought that that was a good idea. Commissioner Sullivan noted that she thought that the draft calendar is probably not realistic. Commissioner Sullivan was assuming something like a 60-day public input process, but that assumed that the notice would get published, everything would be set up as of May, and the Commission would have basically 60 days to take in comments. Commissioner Sullivan felt that the Commission needed to think about how many days are an adequate period of time. Commissioner Sullivan was not sure if it should be 60, 90, 120 days or some other period of time.

Chair Takaki asked if there was any other discussion. He noted that the Commission would need to further discuss and adopt, if it so chose, the Calendar and Submission and Information Committee report at the next meeting. He urged the Commissioners to put some thought into this as it is one of the most critical procedural things the Commission needs to look at because it gets to the heart of how and when it will receive proposed amendments from the public. It also sets a guideline as to what dates are needed to hit along the way in order to fulfill their duty as the Charter Commission. He also added again, as a reminder, that the Commission adopted the Rules Committee report earlier today, and that report does include in it the format that people that want to submit a proposed amendment. He noted that there are probably Commissioners who already have received inquiries from the public. Again, because the Rules Committee report was adopted, the Commission now has the way to submit proposed amendments, but the Commission would like to have the Executive Administrator and office set up before starting to receive proposed amendments in order to give them the full consideration.

Commissioner Sullivan asked, in order to put things in context, what the Personnel Subcommittee's best guess was on when an office would be set up, and noted that the Commission would have to be prepared in order to be able to take in public input. Therefore, Commissioner Sullivan was not sure that May was realistic.

Commissioner Lendio responded that the Personnel Committee anticipated having the Executive Administrator hopefully within two weeks, with a start date either the end of April, or beginning

of May for the contract. Then the Committee could advertise even before the Executive Administrator is selected, so that they could start collecting resumes. Commissioner Lendio reported that they still have to communicate with the City Council with regard to office space. They have outside office space that they have in mind, but the preference is to try to utilize City office space if at all possible. The Committee was seeing if there is any space in the City that can be up and running, because the other office space would have to be built out with the help of DDC and the IT Department.

Based on that report, Chair Takaki said hopefully the office would be operational in May.

Commissioner Lendio said probably May because DDC can get an office up and running very quickly, interacting with IT. The Commission just needs a green light on the budget.

Chair Takaki shared that concern, and noted that the Commission does need a place to direct people who want to submit proposed amendments this as soon as possible.

Commissioner Sullivan asked if it was possible to somehow simultaneously move on, setting up a website and being prepared for communicating and taking proposals in electronically. Commissioner Sullivan did not understand whether the Commission can contract that whether it would have to be done through the DIT and the City.

Commissioner Lendio thought that the first thing would be to have the EA work with DIT to see if there could be a link on the City website that people may be able access the submission form, deadlines, and other information.

Chair Takaki added that the Commission is trying to simultaneously do parallel work in different areas using administrative support where possible but that a big key would be to get staff on board.

Commissioner Sullivan asked for direction on this for the next meeting so that the subcommittee can help address the points that any commissioner would like.

Chair Takaki thought that one big thing was making sure that there is no or minimal conflict between the Rules Committee Report that was adopted today and the Calendar report. And the second issue was extending the date to receive public input or proposed amendments from the public.

Commissioner Sullivan asked if there was there any discussion on what an adequate period of time would be for that.

Commissioner Lendio said that she did not have an opinion. She would think that the Commission would be open to public amendments or even if the public may want to amend an amendment that the Commission was considering. She thought that there might be some tweaking of existing amendments that are proposed by the City, Administration, or City Council

that the public may come in and want the Commission to amend that particular proposed amendment. The calendar report currently has 60 days for public input. Commissioner Lendio would like 90 or 120 days. She thought that 60 days was short.

Commissioner Mikulina noted that even the deadline were September, that still gives three months to find the short list. This would still be well ahead of the game compared to the other Charter Commissions.

Chair Takaki had one question for Corporation Counsel. If the Commission were to adopt a date of September 30 of this year to initially receive the amendments, if the Commission later feels that it needs to open the process and consider some other proposed amendments, would the Commission be able to amend this report to establish some sort of mechanism to receive a second group of proposed amendments?

Diane Kawauchi, Deputy Corporation Counsel, responded that her sense would be that the Commission would be adopting this as a guideline. However, perhaps the Commission would be adopting it as a hard line, in which case, when the time comes, the Commission would have to make a motion to amend, to extend the date.

Chair Takaki asked whether, if the Commission were to adopt this as a guideline, then could the Commission next January say it still wants to receive proposed amendments and as a group, decide to receive those amendments. Chair Takaki noted that of course, he thought that the Commission would need to notify the public so that it wouldn't leave itself open to criticism for not publicizing the new deadline for submission.

Deputy Corporation Counsel Kawauchi responded that that would be her understanding.

IV. Officers Reports

There was no further report from the Chair. Vice-Chair Mikulina discussed the possibility of a ceremonial swearing-in after staff is hired, and brief discussion was held. The Secretary and Treasurer were not present and therefore there were no reports from these officers.

V. Public Testimony

The Chair solicited public testimony on any agenda item. None was submitted or offered.

VI. Announcements

There were no further announcements.

VII. Next Meeting Schedule

The next meeting was set for April 26, 2005, at 4:00 p.m., in Council Chambers, to approve the hiring of the Executive Administrator, assuming that the candidate accepts the terms to be offered.

VIII. Adjournment

Before adjourning, the Chair asked about the status of the Sunshine Law briefing. Corporation Counsel Diane Kawauchi responded that she believed that it was tentatively set for Saturday, May 14, 2005, at 8:30 a.m., but that she needed to confirm this. She also stated that she believed that there would be an effort to schedule another session for those that cannot make it on a Saturday. She further stated that she would update the Commission after she obtains further information.

The meeting was adjourned at 5:12 p.m.